

IN THE HIGH COURT OF ORISSA AT CUTTACK**CRLMC No.8 of 2025****Along with****CRLMC No.907 of 2025 and CRLMC No.909 of 2025**

(In the matter of applications under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023 corresponding to Section 482 of
Criminal Procedure Code, 1973).

Kabindra Kumar Sahoo

....

Petitioner(s)***(In CRLMC No.8 of 2025)******Lokanath Prasad Mohapatra******(In CRLMC No.907 of 2025)******Harish Chandra Nayak******(In CRLMC No.909 of 2025)******-versus-******State of Odisha & Anr.***

....

Opposite Party (s)

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s)

:

Mr. Dayananda Mohapatra, Sr. Adv,***Along with******Mr. Gyanaranjan Mohapatra, Adv.******Mr. A. Dash, Adv.******Mr. M.R. Pradhan, Adv.******For Opposite Party (s)***

:

Mr. Sonak Mishra, ASC***Ms. Sarita Moharana, ASC******Mr. Janmejaya Katikia, Adv.******(for O.P.2)*****CORAM:****DR. JUSTICE SANJEEB K PANIGRAHI****DATE OF HEARING:-19.05.2026****DATE OF JUDGMENT:-25.06.2026****Dr. Sanjeeb K Panigrahi, J.**

1. Since the issues raised in all the CRLMCs referred to above involve common questions of fact and law, they were heard analogously and



are being disposed of by this common judgment. For the sake of convenience and effective adjudication, CRLMC No.8 of 2025 is treated as the lead case

2. The Petitioner has invoked the extraordinary inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of the entire criminal proceeding, including the order dated 20.09.2024 passed by the learned J.M.F.C.-I, Bhubaneswar in I.C.C. Case No. 1044 of 2024. By the said order, the learned Magistrate, upon consideration of the materials placed before the Court, was pleased to take cognizance of offences punishable under Sections 341, 323, 354, 354-B, 283, 363, 406, 420, 467, 468, 471, 120-B, and 34 of the Indian Penal Code, 1860, and consequently directed issuance of process against the present Petitioner along with three other co-accused persons.
3. Aggrieved by the initiation and continuation of the said criminal proceeding, the Petitioner has approached this Court contending that the impugned order of cognizance is legally unsustainable and that the continuation of the prosecution would amount to an abuse of the process of the Court, warranting interference in exercise of the inherent powers vested in this Court.

I. FACTUAL MATRIX OF THE CASE:

4. The brief facts of the case are as follows:
 - (i) The Petitioner is a State Cadre administrative officer who, during the relevant period, was serving as the Secretary of the



Bhubaneswar Development Authority (BDA). The dispute in the present case arises out of the allotment of a plot under the Kalinga Nagar Plotted Development Scheme undertaken by the BDA. Under the said scheme, the Informant/Opposite Party No. 2, namely Smt. Pramodini Das, was allotted a corner plot bearing Plot No. MIG-K9A-10A. As per the layout plan and records pertaining to the scheme, the said plot is bounded on its eastern side by a scheme road developed and maintained by the BDA, while its northern boundary abuts the adjoining area contiguous to the National Highway. The controversy in the present proceeding emanates from issues relating to the said allotment and the subsequent actions taken by the authorities in respect thereof.

- (ii) As per the approved urban layout plans forming part of the Comprehensive Development Plan (CDP), the prescribed width of the National Highway corridor was earmarked as 300 feet. However, the existing carriageway and operational stretch of the highway occupied only about 200 feet, leaving an unutilized buffer zone measuring approximately 50 feet on either side of the highway. The said vacant strips were retained to accommodate any future widening, expansion, or infrastructural development to be undertaken by the National Highways Authority of India (NHAI).
- (iii) In order to ensure proper utilization and maintenance of the surrounding public spaces and to prevent unauthorized



occupation or encroachment upon the vacant highway reserve area, the Bhubaneswar Development Authority (BDA) undertook plantation, landscaping, and urban beautification activities in the said buffer zone as part of its town planning and environmental improvement initiatives. These measures were implemented with a view to preserving the aesthetic character of the area and safeguarding the land from unlawful encroachment pending any future developmental requirements of the NHAI.

- (iv) In order to secure the vacant land and prevent further unauthorized construction activities thereon, the Bhubaneswar Development Authority (BDA) initiated an eviction-cum-demolition operation through the Central Enforcement Monitoring Committee (CEMC). The action was undertaken as part of the enforcement measures aimed at protecting public land and ensuring compliance with the applicable planning and development regulations.
- (v) In accordance with established administrative procedure and executive protocol, the BDA submitted a formal requisition to the Deputy Commissioner of Police (DCP), Bhubaneswar, seeking adequate police assistance for the proposed enforcement drive. The requisition was made with a view to maintaining public order, preventing any untoward incidents, and ensuring the smooth and lawful execution of the eviction and demolition process in the presence of the concerned authorities.



- (vi) On 05.12.2022, a joint enforcement team comprising the Enforcement Officer, the Liaison Officer, and a police contingent, including a platoon of reserve police personnel as well as lady police officers, proceeded to the site for implementation of the proposed enforcement action. The team was accompanied by the technical staff of the Bhubaneswar Development Authority (BDA) and requisite machinery, including a JCB excavator, for the purpose of carrying out excavation work and constructing a concrete boundary wall over the unutilized Government land. The operation was undertaken pursuant to the enforcement measures initiated by the competent authorities with the objective of securing the land, preventing unauthorized occupation, and preserving the property from further encroachment.
- (vii) During the course of the aforesaid enforcement operation, the Informant, Smt. Pramodini Das, objected to the construction activity and alleged that the proposed compound wall obstructed her northern access and approach towards the National Highway. Claiming infringement of her rights arising out of the allotment, she challenged the action of the authorities before this Court by filing W.P.(C) No. 32560 of 2022. In the said writ petition, this Court, by order dated 13.12.2022, directed maintenance of status quo and required the Bhubaneswar Development Authority (BDA) to consider and dispose of the



representations submitted by the Informant in accordance with law.

- (viii) Simultaneously, the Informant lodged a written report before the Inspector-in-Charge of Tomando Police Station alleging misconduct and excesses on the part of the officials involved in the enforcement drive. On the basis of the said report, Tomando P.S. Case No. 36 of 2023 dated 04.02.2023 was registered for the alleged commission of offences punishable under Sections 341, 323, 354, 354-B, 283, 363, and 34 of the Indian Penal Code against the present Petitioner, who was then serving as Secretary, BDA, along with Harish Chandra Nayak, the then Additional Commissioner (Enforcement), BDA, Lokanath Prasad Mohapatra, Superintendent Engineer, BDA, and other members of the enforcement team who had participated in the execution of the official action. The allegations stemmed from the events that allegedly transpired during the course of the eviction and boundary wall construction operation.
- (ix) Pursuant to the registration of Tomando P.S. Case No. 36 of 2023, the local police undertook a detailed investigation into the allegations levelled by the Informant. During the course of investigation, the Investigating Officer (I.O.) examined the relevant official records, inspected the locus in quo, verified the physical features of the site, and recorded the statements of independent local witnesses as well as the police personnel, both male and female, who had been deployed at the spot for



maintenance of law and order during the enforcement operation. The Investigating Officer also scrutinized the circumstances surrounding the alleged occurrence in the light of the materials collected during investigation.

- (x) Upon completion of the investigation, the Investigating Officer found no material substantiating the allegations of assault, use of criminal force, abduction, or other cognizable offences alleged against the officials concerned. It was further noted in the case diary that the Informant declined to undergo medical examination despite the allegations of physical assault and also did not avail the opportunity to have her statement recorded under Section 164 of the Code of Criminal Procedure before the jurisdictional Magistrate. Having found the allegations to be unsupported by credible evidence, the Investigating Officer submitted a Final Report on 14.08.2023, classifying the case as "F.I.R. False" and recommending closure of the proceedings against the Petitioner and the other officials named in the First Information Report.
- (xi) Being dissatisfied with the Final Report submitted by the police, the Informant filed a Protest Petition before the court of the learned J.M.F.C.-I, Bhubaneswar. The said Protest Petition was registered as I.C.C. Case No. 1044 of 2024. In support of her allegations, the Informant examined herself on solemn affirmation and also adduced the statements of two employees



of the Bhubaneswar Development Authority (BDA) during the inquiry conducted by the learned Magistrate.

- (xii) Upon consideration of the materials produced in the complaint proceeding, the learned Magistrate, by order dated 20.09.2024, observed that the acts alleged against the accused persons did not appear to have been performed by them in the discharge of their official duties as public servants and, consequently, proceeded to take cognizance of offences punishable under Sections 341, 323, 354, 354-B, 283, 363, 406, 420, 467, 468, 471, 120-B, and 34 of the Indian Penal Code. The learned Magistrate further directed issuance of process against the present Petitioner and the other accused persons named in the complaint. Assailing the legality and sustainability of the said order of cognizance and the consequential criminal proceeding, the Petitioner has approached this Court by filing the present petition.

Being aggrieved by the aforesaid facts and circumstances, the Petitioner has been constrained to approach this Court by way of the present criminal appeal.

II. SUBMISSIONS ON BEHALF OF THE PETITIONER:

5. The learned counsel for the Petitioner respectfully and earnestly made the following submissions in support of his contentions:
- (i) The Petitioner submits that the finding recorded by the learned Magistrate to the effect that the accused persons were not public servants is ex facie erroneous and contrary to the statutory



mandate governing the functioning of the Bhubaneswar Development Authority. It is contended that Section 99 of the Orissa Development Authorities Act, 1982 expressly provides that every member, officer, and employee of the Development Authority shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code while acting or purporting to act in pursuance of the provisions of the Act.

- (ii) It is, therefore, argued that the Petitioner, who was serving as the Secretary of the Bhubaneswar Development Authority during the relevant period, along with the other officials involved in the enforcement action, indisputably falls within the statutory definition of a public servant. According to the Petitioner, the contrary observation made in the impugned order betrays a manifest misappreciation of the legal position and has materially vitiated the exercise undertaken by the learned Magistrate while taking cognizance of the alleged offences.
- (iii) It is submitted that the finding of the learned Magistrate that the accused persons are not public servants represents a glaring error apparent on the face of the record. Section 99 of the Orissa Development Authorities (ODA) Act, 1982 explicitly mandates that all members, officers, and employees of the Authority shall be deemed to be public servants within the meaning of Section 21 of the IPC.



- (iv) The Petitioner submits that the eviction drive, demolition activities, and subsequent construction of the boundary wall were undertaken strictly in the discharge of official duties and pursuant to directions issued by the competent authorities. It is contended that the acts complained of have a direct nexus with the Petitioner's official functions as a public servant and were performed in the course of execution of statutory responsibilities. Accordingly, in the absence of the mandatory prior sanction under Section 197 of the Cr.P.C., the learned Magistrate could not have validly taken cognizance of the alleged offences. The impugned order is, therefore, stated to be vitiated in law and liable to be quashed.
- (v) The Petitioner contends that the present dispute essentially arises out of issues relating to urban planning, land demarcation, and enforcement measures undertaken by the Bhubaneswar Development Authority, which have been deliberately given a criminal colour by the Informant with the oblique motive of protecting her alleged unauthorized occupation over public land. It is further submitted that the allegations levelled against the Petitioner are wholly unfounded, inasmuch as he was not present at the site on the date of the alleged occurrence, i.e., 05.12.2022, and was discharging his official duties at the administrative headquarters. The implication of the Petitioner in the complaint is, therefore, stated to be baseless and motivated.



(vi) The learned counsel heavily relies on the landmark ruling of the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*¹, along with recent judgments in *Anukul Singh v. State of U.P.*², and *Suneeti Toteja v. State of U.P.*³. It is submitted that the statements of the two interested BDA employees are motivated by prior institutional grievances. Furthermore, a physical site survey conducted by the court-appointed Court Commissioner on 18.12.2026 conclusively verified that the Informant had encroached upon approximately 8 feet of the northern highway expansion belt beyond her allotted boundaries. Therefore, the complaint is absurd, inherently improbable, and must be quashed.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTIES :

6. *Per contra*, the learned counsel for the Opposite Parties earnestly made the submission that the present CRLMC is not maintainable before this Court and deserves to be rejected in limine.

(i) The Opposite Party No. 2 submits that the protection envisaged under Section 197 of the Cr.P.C. is not intended to operate as a blanket shield insulating public servants from prosecution for acts which are wholly unrelated to the discharge of their official duties. It is contended that the statutory protection cannot be invoked to thwart criminal proceedings involving

¹ 1992 AIR 604

² 2025 INSC 1153

³ 2025 INSC 267



allegations of personal misconduct or offences of a grave nature committed under the guise of official authority.

- (ii) According to the Opposite Party No. 2, the allegations contained in the complaint disclose acts such as demolition of a private boundary structure, use of criminal force against an elderly woman, outraging of her modesty by tearing her saree, and her alleged forcible detention and removal in a vehicle. Such acts, it is argued, are ex facie beyond the scope of any lawful official function and cannot be said to bear any reasonable nexus with the discharge of public duties. Consequently, the bar under Section 197 of the Cr.P.C. is stated to have no application to the facts of the present case.
- (iii) The Informant/Opposite Party No. 2 further submits that the materials adduced during the inquiry under Sections 200 and 202 of the Cr.P.C. disclose the existence of a prima facie case warranting prosecution. It is contended that the sworn statement of the Complainant, read in conjunction with the depositions of P.W. 2 and P.W. 3, sufficiently supports the allegations made in the complaint petition and provides adequate grounds for the learned Magistrate to proceed against the accused persons.
- (iv) It is further argued that the said witnesses have specifically alleged the presence and involvement of the accused persons during the enforcement operation and have attributed to them a direct role in supervising and directing the eviction drive.



According to the Informant, the action was undertaken without issuance of any prior statutory notice, show-cause communication, or demolition order to the affected allottee, thereby lending credence to the allegations raised in the complaint. On the basis of these materials, it is contended that the learned Magistrate rightly formed an opinion regarding the existence of sufficient grounds for proceeding against the accused persons.

- (v) It is contended that the BDA took an extra 20% financial premium from the Informant during allotment specifically because plot No. MIG-K9A-10A was marketed as a prime corner plot with open dual-road access. By subsequently building a concrete block wall directly adjacent to her northern staircase, the BDA directly breached its own statutory layout guidelines.
- (vi) It is further argued that the pleas raised by the Petitioner regarding his alleged absence from the spot, the findings recorded in the police Final Report, and other factual discrepancies constitute matters of defence which can only be properly adjudicated upon during trial after appreciation of evidence and cross-examination of witnesses. According to the Informant, the statements recorded during the complaint inquiry disclose sufficient prima facie materials against the accused persons, and therefore the learned Magistrate was fully justified in taking cognizance and issuing process. The



present application, it is contended, is devoid of merit and liable to be dismissed.

IV. COURT'S REASONING AND ANALYSIS:

7. Heard Learned Counsel for parties and perused the documents placed before this Court.
8. Upon an anxious and careful consideration of the foregoing facts, pleadings, and rival submissions advanced by the parties, this Court finds that the pivotal question which falls for determination is whether the order taking cognizance by the learned Magistrate stands vitiated in law for want of the previous sanction contemplated under Section 197 of the Code of Criminal Procedure, and, consequently, whether the continuance of the criminal proceeding against the Petitioner would amount to an abuse of the process of the Court so as to warrant interference in exercise of the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. The resolution of this issue necessarily requires an examination of the nature of the allegations, the status of the accused, the nexus between the alleged acts and the discharge of official duties, and the legal necessity of obtaining prior sanction before the Court could validly assume jurisdiction to proceed with the matter.
9. The inherent jurisdiction vested in this Court under Section 482 of the Code of Criminal Procedure, corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is undoubtedly of wide amplitude and is intended to secure the ends of justice and prevent abuse of the process of the Court. Nevertheless, such extraordinary



jurisdiction is to be exercised sparingly, with circumspection, and only in exceptional circumstances where judicial intervention is imperative.

10. The power cannot be invoked in an arbitrary or routine manner to stifle a legitimate prosecution at its threshold. It is well settled that at the stage of taking cognizance, the learned Magistrate is not expected to undertake a meticulous examination of the evidence or adjudicate upon the truthfulness of the allegations. The limited inquiry at that stage is confined to ascertaining whether the materials placed on record, taken at their face value, disclose the commission of an offence and make out a prima facie case warranting further proceedings. Where such foundational satisfaction is discernible from the complaint and the accompanying materials, interference under the inherent jurisdiction of this Court would ordinarily be unwarranted.
11. The afore said view finds authoritative support from the decision of the Supreme Court in *Kaptan Singh v. State of U.P.*,⁴ wherein it has been held that:

“9.2..... It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings exercise of powers under Section 482 Cr.P.C.”

12. Similar interpretation has also been dealt by the Supreme Court in *Neeharika Infrastructure Private Limited v. State of Maharashtra & Ors*,⁵ wherein it has been held that:

“7. While considering the aforesaid issue, the law on exercise of powers by the High Court under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India to quash the FIR/complaint and the parameters for

⁴ (2021) 9 SCC 35

⁵ AIR 2021 SC 1918



exercise of such powers and scope and ambit of the power by the High court under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India are required to be referred to as the very parameters which are required to be applied while quashing the FIR will also be applicable while granting interim/protection.”

13. The principle enunciated therein leaves no room for doubt that while exercising its inherent jurisdiction under Section 482 of the Cr.P.C., the High Court is not expected to embark upon a meticulous examination of the evidentiary materials or adjudicate upon their probative value.
14. It is not in dispute that the Petitioner, while functioning as the Secretary of the Bhubaneswar Development Authority, answers the description of a “public servant” within the meaning of Section 99 of the Orissa Development Authorities Act, 1982. Nevertheless, the statutory protection embodied under Section 197 of the Code of Criminal Procedure is neither absolute nor all-encompassing.
15. The legislative object behind the provision is to afford reasonable protection to public servants against vexatious or frivolous prosecutions arising out of acts performed in the discharge or purported discharge of their official duties. Such protection cannot be extended to act which bear no reasonable nexus with the official functions entrusted to the public servant or which are manifestly beyond the scope of his lawful authority.
16. The safeguard of prior sanction is attracted only when the alleged act is so integrally connected with the performance of official duty that it



can reasonably be said to have been committed in the course of, or under the colour of, such duty. Consequently, Section 197 of the Cr.P.C. cannot be invoked as a blanket immunity to thwart legitimate criminal prosecution in respect of acts that are extraneous to official functions or constitute a misuse of official position for purposes unconnected with the discharge of statutory responsibilities.

17. A careful reading of the averments contained in the complaint petition reveals allegations of a grave and personal nature, including the use of criminal force against an elderly woman, the outraging of her modesty by allegedly tearing her saree in a public place, and her forcible abduction. By no stretch of legal reasoning can such acts be regarded as having been committed in the discharge of official duties or under the colour of any lawful authority vested in the Petitioner.
18. The allegations, if taken at their face value, pertain to conduct that is wholly alien to and disconnected from the functions and responsibilities attached to a public office. There exists no reasonable or direct nexus between the impugned acts and the performance of any statutory or official duty. Consequently, the acts complained of fall entirely outside the protective ambit of Section 197 of the Cr.P.C., and the requirement of prior sanction cannot be invoked to shield the Petitioner from criminal prosecution in respect thereof.
19. In the case at hand, the Informant has, in her statement recorded under Section 200 of the Cr.P.C., made specific and unequivocal allegations that she was forcibly taken in a vehicle to an undisclosed location, subjected to physical assault, and publicly humiliated by acts



amounting to an outrage of her modesty. The materials available at the stage of cognizance further disclose that the statements of two police officials recorded during investigation under Section 161 of the Cr.P.C. specifically implicate the Petitioner and place him at the scene of occurrence on 05.12.2022. These materials, prima facie, furnish sufficient grounds for the learned Magistrate to proceed against the accused persons.

20. The contentions advanced by the Petitioner regarding his alleged absence from the place of occurrence, the conclusions drawn in the police Final Report, and the plea of alibi are essentially matters of defence which necessitate appreciation of evidence and adjudication upon disputed questions of fact. Such issues cannot be conclusively examined or determined in proceedings under Section 482 of the Cr.P.C./Section 528 of the BNSS. Whether the Petitioner was in fact present at the relevant time and place, whether the plea of alibi is capable of being established, and what evidentiary value is to be attached to the Final Report are all matters that fall within the exclusive domain of the trial court and can be adjudicated only upon a full-fledged trial. At this preliminary stage, this Court is required to confine itself to the allegations and materials forming part of the record, which, on their face, disclose the commission of cognizable offences and justify the continuation of the criminal proceedings.
21. The discrepancies, inconsistencies, and factual controversies sought to be highlighted by the Petitioner are matters which lie within the realm of evidentiary appreciation and adjudication on merits. Such issues



cannot be conclusively determined while exercising the limited and extraordinary jurisdiction under Section 482 of the Cr.P.C./Section 528 of the BNSS.

22. The veracity of the rival versions, the probative value of the materials on record, and the effect of any alleged contradictions are matters that can be properly examined only upon the recording of evidence and a comprehensive evaluation thereof during the course of trial.
23. At the stage of considering a prayer for quashing, this Court is not expected to undertake a meticulous scrutiny of the evidence or embark upon an enquiry into the truthfulness of the allegations. Consequently, the discrepancies pointed out by the Petitioner do not furnish a legitimate ground for stifling the prosecution at its threshold and must necessarily await adjudication by the competent trial court after a full-fledged trial.

V. CONCLUSION:

24. In view of the foregoing discussion and upon an anxious, careful, and comprehensive consideration of the facts, circumstances, and materials available on record, this Court is of the considered opinion that the learned Magistrate has committed no manifest illegality, jurisdictional error, or perversity in taking cognizance of the offences and issuing process against the Petitioner. The order impugned reflects due application of judicial mind to the complaint, the statements recorded in support thereof, and the other materials placed before the Court, which, prima facie, disclose the commission of cognizable offences warranting further proceedings.



25. The allegations levelled in the complaint give rise to serious and contested questions of fact, the determination whereof would necessarily require appreciation of oral and documentary evidence, examination of witnesses, and adjudication upon rival factual claims. Such an exercise falls squarely within the domain of the trial court and cannot be undertaken in proceedings invoking the extraordinary and inherent jurisdiction of this Court.
26. It is trite that where the materials on record disclose a prima facie case and the controversy involves disputed factual issues requiring evidentiary evaluation, the inherent powers under Section 482 of the Cr.P.C./Section 528 of the BNSS ought not to be exercised to stifle a legitimate prosecution at its inception. Consequently, this Court finds no justifiable ground to interfere with the impugned order or to quash the criminal proceeding at this preliminary stage.
27. Accordingly, the CRLMCs stand **dismissed**.
28. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated 25th June, 2026/*